THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NO : 1242 of 2005

Dated: 12.08.2005

Between:

1. The Regional Manager, APSRTC.,

Nalgonda Region, Nalgonda District

And two others. ..Appellants

And

K.R. Reddy, S/o Prabhakar. .. Respondent.

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NO : 1242 of 2005

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JUDGMENT: (Per the Honourable Smt Justice T. Meena Kumari)

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This writ appeal is preferred by the appellant against the order, dated 29.4.2005 in W.P.No.10394 of 2005, under which the learned Single Judge of this Court modified

the penalty of deferment of annual increment for a period of one and a half year without cumulative effect.

The appellant herein is the writ petitioner. Originally, the writ petitioner filed the above writ petition seeking a direction, in the nature of writ of Mandamus, declaring the proceedings No.P.1/1(8)/88-NKP, dated 28.11.1989 issued by the 3rd respondent, against the petitioner, as illegal and to set aside the same.

It is the case of the writ petitioner that on the allegation of unauthorized absenteeism, the 3rd respondent, without conducting any enquiry and without issuing a show cause notice, passed the proceedings dated 28.11.1989 imposing punishment of deferment of annual increment for a period of one and a half year with cumulative effect. The petitioner carried the matter in appeal and the same was rejected by the appellate authority on the ground of limitation. Aggrieved by the same, the petitioner filed the above writ petition. The learned Single Judge of this Court while disposing of the writ petition observed that though this matter has to be remitted to the disciplinary authority, at the request of the learned Counsel for the petitioner, the punishment was modified to that of the penalty of deferment of annual increment for a period of one and a half year without cumulative effect. Aggrieved by the same, the petitioner preferred the present appeal.

Heard the learned Counsel and perused the order under appeal and the material available on record.

A perusal of the order under appeal clearly goes to show that in view of the fact that the punishment has been imposed without initiating any enquiry, the learned Single Judge modified the punishment imposed under the proceedings dated 28.11.1989 to that of the punishment of deferment of annual increments for a period of one and a half year, without cumulative effect. Except that, no other finding was recorded by the learned Single Judge.

While imposing the punishment, what all that has to be considered, is gravity of the charge but not by taking into consideration of any other aspects. As a matter of fact, in the instant case, the charge leveled against the delinquent is with regard to the unauthorized absenteeism. But that cannot be termed as a grave one. Apart from

that, while making such allegation, enquiry should be conducted and an opportunity should be afforded to the petitioner to put forth his case. But that was not done in the instant case.

At this stage, it is brought to the notice of this Court that the petitioner has moved this Court after a lapse of 17 years. Though admittedly, the punishment in question has been imposed without initiating any enquiry, in view of the fact that the petitioner has approached this Court at a belated stage, We do not wish to quash the proceedings impugned in the writ petition. But, however, in the facts of the circumstances of the case, we deem it fit to modify the order of the learned Single Judge to that of deferment of annual increment for a period of one year, without cumulative effect, in order to put a quietus to the litigation.

Subject to the above modification, the writ appeal is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice P. Lakshmana Reddy

Dated: 12.08.2005

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